IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FOURTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 17669 of 2004

Between:

1. Smt.Reddygari Vengamma, w/o Ramana Reddy,

r/o Manchalakatta Village, Gadivemula Mandal, Kurnool

District.

2 Avula Reddy Chinna Subbaiah, s/o Subbaiah,
r/o Jalakanur Village, Midthur Mandal, Kurnool District.

3 Gundam Chakradhra Reddy, s/o Peddalingareddy,
r/o Peddalingareddy, Jalakanur Village, Midthur Mandal,

Kurnool District.

4 Geesubhaigari Hussain Saheb, s/o Mohammed Sab,
r/o Manchalakatta Village, Gadivemula Mandal, Kurnool

District.

..... PETITIONERS

AND

The Special Deputy Collector (Land Acquisition) S.R.B.C.Nandyal, Kurnool District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction, more particularly one in the nature of writ of mandamus, to declare the impugned endorsement dt.22-07-2004 bearing No.R.Dis.A/138/2002 on the file of respondent as illegal, arbitrary, violative of Article 14 and 300A of the Constitution of India and consequently

set aside the same.

Counsel for the Petitioner:MR.NANDURIVENKATA RAMANA KUMAR

Counsel for the Respondent: GP FOR LAND ACQUISITION

The Court at the stage of admission made the following ORDER:

Petitioners are owners of various extents of lands in various survey numbers situate in Jalakanur village. The respondent acquired the said lands by issuing a notification under Section 4(1) of the Land Acquisition Act (for short 'the Act') and passed award determining the compensation at the rate of Rs.11,000/- and Rs.6,000/- per acre. Dissatisfied with the same, the petitioners submitted a protest petition to the respondent to refer the matter to the civil Court concerned under Section 18 of the Act for fixation of the market value. Petitioners contend that the matters of the other persons, whose lands were notified under the same notification, were referred to the civil Court and accordingly, the learned Senior Civil Judge, Nandikotkur awarded the compensation at Rs.15,000/- per acre and on appeals preferred by them, this Hon'ble Court, through its order dated 18.04.2002, enhanced the compensation to Rs.22,500/- per acre. In view of the same, the petitioners submitted applications under Section 28-A of the Act to the respondent on 21.10.2002 and 07.11.2002, but the same were rejected on the ground that the applications have to be filed before the concerned Land Acquisition Officer within three months from the date of the award passed by the civil Court. Hence, this writ petition.

Learned counsel for the petitioners submits that pursuant to the Judgment of this Court in A.S.No.195 of 1999 and batch, the respondent ought to have considered the applications of the petitioners and paid the compensation at Rs.22,500/- per acre.

Heard learned counsel on either side.

Having heard the learned counsel on either side and having perused the material on record, it is evident that the respondent rejected the applications submitted by the petitioners under Section 28-A of the Act on the ground that the said applications must be filed before the Land Acquisition Officer concerned within three months from the date of the award passed by a civil Court having original jurisdiction. The claimant, who has not availed the benefit of reference under Section 18 of the Act, has to make an application under Section 28-A of the Act for re-determination of compensation, within three months from the date of award of reference Court on the basis of which re-determination is sought and not the order of the appellate Court dealing with the appeal against the award of the reference Court (see *Jose Antonio Cruz Dos R.Rodriguese v. Land Acquisition Collector* (1996) 6 SCC 746). In view of the said proposition, and in view of the facts and circumstances of the case, I find no illegality or infirmity in the order passed by the respondent rejecting the applications submitted by the petitioners under Section 28-A of the Act.

The writ petition is accordingly dismissed.

04.10.2004

ksld

To

1 The Special Deputy Collector (Land Acquisition) S.R.B.C.Nandyal,

Kurnool District.

2 Two CCs to the Government Pleader for Land Acquisition, High Court of A.P.,Hyderabad (OUT).

3 Two CD copies.